

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Crim. No. 4:CR-96-239
 : Civil No. 4:CV-02-510
 v. :
 : (Muir, J.)
 DAVID PAUL HAMMER : **ELECTRONICALLY FILED**

**UNITED STATES' MOTION
TO ALTER OR AMEND JUDGMENT**

COMES NOW, the United States of America, by undersigned counsel, and moves, pursuant to Federal Rule of Civil Procedure 59(e), to alter and amend this Court's judgment dated December 27, 2005. The United States respectfully requests that the Court alter and amend its judgment to provide that David Paul Hammer's Section 2255 motion, as amended, be denied in its entirety. As grounds for this motion, the United States submits as will be addressed at length in its forthcoming supporting briefs that this Court incorrectly analyzed legal basis for concluding that a new penalty phase should be conducted.

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

By s/Frederick E. Martin
FREDERICK E. MARTIN
Assistant United States Attorney
PA 57455
Herman T. Schneebeli Federal Bldg.
240 West Fourth Street, Suite 316
Williamsport, PA 17701-6465
Tele: (570) 326-1935
FAX: (570) 326-7916
Electronic Mail:
Fred.Martin@usdoj.gov

GWYNN X. KINSEY, Jr., Esquire
U.S. Department of Justice
601 D Street, N.W., Room 6131
Washington, DC 20530
Telephone: (202) 353-9721
FAX: (202) 353-9779

Dated: January 11, 2006

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CERTIFICATE OF NON-CONCURRENCE

The undersigned hereby certifies that on January 11, 2006,
he spoke with defendant's counsel, who stated his non-concurrence
in the requested United States Motion to Alter or Amend Judgment.

Respectfully submitted,

THOMAS A. MARINO
United States Attorney

By s/Frederick E. Martin
Frederick E. Martin
Assistant United States Attorney
PA 57455
Herman T. Schneebeli Federal Bldg.
240 West Fourth Street, Suite 316
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of
the foregoing

**UNITED STATES' MOTION TO ALTER OR AMEND JUDGMENT,
CERTIFICATE OF NONCONCURRENCE, and proposed ORDER**

to be electronically mailed on January 11, 2006 to:

ADDRESSEE:

Anne L. Saunders, Esquire
Anne_Saunders@fd.org

Michael Wiseman, Esquire
Michael_Wiseman@fd.org

s/Frederick E. Martin
FREDERICK E. MARTIN
Assistant United States Attorney